Quarterly Report

OF THE

ATTORNEY GENERAL

OF

ALABAMA

FOR THE PERIOD

FROM JANUARY 16, 1979
THROUGH MARCH 31, 1979

CHARLES A. GRADDICK, Attorney General

VOLUME 174

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QUARTERLY REPORT

of the

ATTORNEY GENERAL

of

ALABAMA

For the Period

From January 16, 1979

Through March 31, 1979

TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS OF ALABAMA:

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from January 16, 1979 through March 31, 1979, is published in compliance with the provisions of Title 55, Section 228 Code of Alabama, 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. The section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, County, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

CHARLES A. GRADDICK

Attorney General

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January 19, 1979

Mr. Tom Young
District Attorney, Randolph County
c/o Deputy District Attorney
Wedowee, Alabama 36278

Roads—County not authorized to perform work on private roads.

Opinion by Assistant Attorney General Lurie.

Dear Sir:

Your request of January 11, 1979 is stated as follows:

> "Please advise me as to your interpretation of the definition of a private versus public road in regards to the performance of road work by the county road crews. I need to know the distinction between a public and private road and under what circumstances, if any, county road crews could perform work on private property to include private driveways or roads."

The definitions of 'private' and 'public' roads as found in Corpus Juris Secundum and Words and Phrases are myriad. They are based, for the most part, on the purpose and use of the roadway. It is impossible to define these types of roads without the background information as to the use. It is assumed, for the purpose of response to your request, that you have reference to 'private' roads as provided for in Code of Alabama 1975, §23-1-130 wherein the person seeking to establish such a road is required to keep it in repair. It is also assumed that your reference to work on private property for constructing or repairing driveways or roads does not relate to the above-cited statutory provision.

There is no provision of law which authorizes the county governing body to spend public funds for such private use as under consideration here.

Any and all opinions previously issued by the Office of the Attorney General which are contrary to the expressions hereinabove recited are hereby superseded.

It is hoped that the above conclusions of this office will be of assistance to you in the performance of your duty.

Yours very truly,

CHARLES A. GRADDICK
Attorney General

January 22, 1979

Warren N. Richards
Superintendent of Education
Russell County Board of Education
Russel County Courthouse
P. O. Box 908
Phenix City, Al 36867

Schools—County Board of Education member may not be financially interested in any contract with the Board on which he serves.

Opinion by Assistant Attorney General Hamlett.

Dear Mr. Richards:

I have your letter in which you request an opinion of this office concerning whether a company which is owned 50% by a county board of education member and 50% by the board member's wife may bid on and be awarded a contract with the county board of education for personal property and/or services. Your question is answered in the negative.

This ruling is based upon Section 4-16-60, **Code of Alabama** 1975. That code section clearly provides in pertinent part as follows:

> "No member or officer of . . . the city and county boards of education . . . shall be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of or contract for any personal property or contractual service, nor shall any person willfully make any purchase or award any contract in violation of the provisions of this article. . . ."

The penalty for violating this section is criminal conviction of a misdemeanor carrying a penalty of up to twelve months in jail or a fine up to $500 or both.

It should be noted that this code section is part of the state bid law applicable to city and county boards of education. Thus, no exception is made to this statute in the event that the contract be let by public bidding. You should further note that under this statute, it is also illegal to award such a contract. Thus, it makes no difference under this statute whether or not the board member recuses himself from the board meeting when the contract is considered.

Sincerely,

CHARLES A. GRADDICK
Attorney General

January 23, 1979

Mr. J. F. Bynum
Administrator
Hale County Hospital
First and Green Streets
Greensboro, AL 36744

County hospital may not charge interest on unpaid bills unless the hospital complies with provisions of the Mini Code.

Opinion by Assistant Attorney General Kendrick.

Dear Mr. Bynum:

I am writing in response to your letter requesting an opinion from this office. For clarity, your request in its entirety is set out below:

> Enclosed is a copy of an indebtedness filed in the Probate Office of Hale County, Alabama which I think is self-explanatory.
>
> The Attorney for the estate said that he had never heard of interest charges on a hospital bill. I asked him if it was illegal and he said, "I don't guess so." To my definite knowledge, I know of estates not being settled for a few years, wills not being probated and I think it good business practice to promptly file indebtedness against an estate within thirty days after a person expires. By following such a practice a hospital is never left out of an estate settlement for not having presented a record of the claim against said estate.
>
> We are a county hospital, and request that you advise if this claim is illegal in any respect as filed and recorded.

Insofar as I can determine, there would not appear to be any problem with the hospital filing a claim in probate court against the estate of a deceased patient. However, charging interest on the indebtedness may well bring the hospital under the provisions of Alabama's Consumer Finance Act, commonly known as the Mini Code, codified as Code of Alabama 1975, Section 5-19-1 through Section 5-19-1 (1) defines finance charge as follows:

> FINANCE CHARGE. Such term shall include all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the creditor as an incident to the extension of credit, including interest. . . .

Section 5-19-1 (3) defines creditor as follows:

> CREDITOR. Such term refers only to creditors who regularly extend or arrange for the extension of credit for which the payment of a finance charge is required whether in connection

with loans, sales of property or services or otherwise. **The provisions of this chapter apply to any such creditor irrespective of his or its status as a natural person or any type of organization.** [Emphasis Supplied]

If the hospital proposes to routinely charge interest on the unpaid indebtedness of the estate of a deceased patient, then the hospital would apparently be a creditor under the definition quoted above. This would mean that the hospital would have to comply with all the provisions of the Mini Code, including filing with the Superintendent of Banks and the payment of an annual fee to the State Banking Department. Furthermore, since the hospital would not be able to determine in advance which patients might expire before the indebtedness is paid, the hospital would have to enter a creditor-consumer contract with all patients admitted to the hospital. This contract would have to meet the requirements of the Mini Code, specifically Section 5-19-6.

In view of the above considerations, it is the recommendation of this office that the hospital not attempt to charge interest on unpaid indebtedness. Should you decide to do so, you should work very closely with the attorney for the Hospital Board to insure full compliance with all provisions of the Mini Code. Section 5-19-30 makes violation of the provisions of the Mini Code a misdemeanor punishable by a fine of $500, or one year imprisonment, or both.

If you have further questions on this matter please do not hesitate to contact this office.

Sincerely,

CHARLES A. GRADDICK
Attorney General

January 25, 1979

Mr. Ralph P. Eagerton, Jr.
Commissioner of Revenue
Montgomery, Alabama 36130

Taxation—Ad Valorem—Assessors

General discussion and answers to numerous questions arising out of the adoption of an amendment to Section 217 of the Constitution of Alabama of 1901 proposed by Act 6 of the Second Special Session, 1978 of the Alabama Legislature.

Opinion by Assistant Attorney General Philip C. Davis.

Dear Commissioner Eagerton:

In a letter of September 20, 1978, your office asked of this office

opinions requesting a number of questions which relate to administration of an ad valorem tax system of this state in view of the adoption of the Amendment proposed by Act 6 of the 1978 Second Session, and statutes enacted pursuant thereto.

A paraphrase of each question will be set forth below, followed by the answer thereto:

Q: 1. Are the terms "principal residence" and "homestead" as used in Act 48 synonymous?

A: No. Separate and independent exemptions are provided for "homesteads" and for "principal residences" by §40-9-19 and §40-9-21 respectively and these exemptions should be applied independently. The term "homestead" retains the same meaning that it had under prior law. Generally, a "principal residence" is a single-family dwelling owned by the occupant and used as his primary or "principal" place of abode.

Q: 2. Does the exemption provided in Section 1 of Act 91 apply to "school taxes" other than those specifically levied as school district taxes?

A. Yes. All ad valorem taxes levied by the county other than those specifically levied as "school district taxes" are subject to the exemption provided in Section 1 of Act 91.

Q: 3. Does the exemption of Act 91 as extended to disabled persons or persons over 65 apply to "school district taxes?"

A: No. The only exemption provided in Act 91 is found in the first sentence thereof and specifically excepts school district taxes. The balance of this section defines the exemption provided in the first sentence.

Q: 4. Does Act 91 create a "dual homestead," and if not, what is the meaning of the fourth sentence of Section 1 of Act 91?

A: Act 91 does not create a "dual homestead." The fourth sentence of Section 1 covers the situation in which a single homestead may be intersected by a county boundary, and provides for proration to each county in which it may lie.

Q: 5. Must the Department of Revenue issue certificates of disability to taxpayers who have documentary evidence of total disability issued by an agency of the United States government such as SSA, Defense Department, etc.?

A: Yes. This provision is a carryover from the previous law, and it is clear that the statute has required the issuance of certificates of disability to persons who establish that they are disabled. The procedure by which the certificates are issued is an appropriate matter for administrative regulation.

Q: 6. Do the exemptions provided in Acts 91 and 48 apply to municipal ad valorem taxes?

A: The exemption in Act 91 applies only to ad valorem taxes levied by a county. The exemption set forth in Section 1 of Act 48, which amends **Code of Alabama 1975,** §40-9-19, applies only to taxes levied at the state level, while the exemption set forth in Section 2 of Act 48 which amends **Code of Alabama 1975,** §40-9-21, applies to all ad valorem taxes, including municipal ad valorem taxes.

Q: 7. Section 2 of Act 48 refers to net annual taxable income "as shown on such person and spouse's latest United States Income Tax Return." What is net annual taxable income?

A: "Net taxable income" is a phrase having a specific meaning in tax law (see Section 63 Internal Revenue Code of 1954, as amended), generally income after deductions and exemptions, and is clearly intended to have the same meaning in Act 48. This figure may not be shown specifically on some federal tax returns, but can be derived from the information included on the return and the applicable tax tables.

Q: 8. Still referring to Section 2 of Act 48, if spouses file separate federal returns, must the assessing spouse produce the other spouse's federal return as well as his own?

A: Yes. The phrase "such person and spouse's" refers to a family unit to benefit from the exemption and the legislative history of this provision indicates an intention that both spouses are to be construed together, and the income of both is considered in the grant of the exemption. Their combined "net annual income" must be less than $7,500.00.

Q: 9. If a person who qualifies for homestead exemption under Act 48 resides in the city but also owns a farm at which he occasionally remains overnight, can he claim the homestead exemption on the farm?

A: No. Usually, the homestead includes the place or home at which the taxpayer generally resides, all other "residences" being secondary. Where a person owns two or more residences only the primary residence is subject to homestead exemption. This is a matter very similar to the question of domicile and each case must be resolved on its own facts.

Q: 10. If the property for which an exemption is claimed under the homestead exemption provisions has other buildings, such as barns, storage rooms, "house trailers" and residences other than the claimant's principal residence would the exemption apply to any or all of such other buildings?

A: The exemption applies to the curtilage of the principal residence of the claimant. The curtilage is ordinarily construed to include the yard and supporting outbuildings such as barns, cribs and the like.

(Ballantines Law Dictionary, Third Edition, p. 300). Another, separate residence on the same property such as a housetrailer would not be included within the curtilage and thus the homestead exemption would not apply to it.

Q: 11. If in a given year a taxpayer submits evidence issued by a governmental agency that he is totally disabled, must he submit such evidence in subsequent years?

A: See question 5 above. The annual resubmission of evidence is a matter within the regulatory powers of the Commissioner and it might be appropriate to require such information upon the tax notices which are mailed to the taxpayer and returned with payment.

Q: 12. Can either the husband or wife claim homestead exemptions which apply to the principal residence which they own and occupy?

A: Yes.

Q: 13. Can the tax assessor accept a claim to homestead exemption based upon an affidavit completed by an owner and mailed to the tax assessor and, in lieu of a United States Income Tax Return, accept such an affidavit as evidence of the income shown on such return?

A: The tax assessor can accept a claim to homestead exemption based upon an affidavit only in the event that the applicant and his spouse were not required to file a United States Income Tax Return for the preceding taxable year. Otherwise the claimant must present his and his spouse's United States Income Tax Return.

Q: 14. If the person occupying a property as his personal residence holds title jointly, as heir or otherwise, with someone else, is the occupant entitled to claim any part of the homestead exemptions?

A: Yes. The residence must be occupied, as a principal residence, by a person having an ownership interest in the property. The occupant is entitled to all of the homestead exemptions which apply, even if he is the joint owner.

Q: 15. Is there any distinction between the definitions of the term residential property as provided in the constitutional amendment, Act 6, and in the implementing statute, Act 46?

A: No. In the case of **Boswell v. Howell** affirmed by the Alabama Supreme Court on April 6, 1973, without opinion, the Court held that the implementing statute cannot alter the definition in the constitutional provision. If there is a distinction, the definition in the constitutional provision must prevail. However, in the present instance it appears that the two definitions reach the same meaning with slightly different words. "Owner-occupied residential property" is "real property used exclusively as a single-family dwelling by the owner thereof."

Q: 16. Can homestead exemptions be claimed for property not in Class III?

A: No. Only Class III property is subject to the application of homestead exemptions.

Q: 17. Are duplexes where one unit is occupied by the owner, Class III property?

A: No. A duplex is not a single-family dwelling.

Q: 18. Are apartment buildings, vacant lots, and rental property Class II property?

A: Yes. Class I property is property belonging to a utility and used in the business of the utility, Class III property is agricultural, forest and single-family owner-occupied residential property and historic buildings and sites. Apartments, vacant lots and rental property are not "used in the business of a utility," nor are they agricultural or forest property, nor single-family dwellings. If such property were property certified as an "historic building or site" it would be Class III.

Q. 19. Is a "pickup" truck owned by an individual and used in his business Class IV property?

A: Yes, a pickup truck owned and operated by an individual in his business is Class IV property unless that business is to put the vehicle for hire, rent or compensation.

Q: 20. Are vans owned by individuals and set up for use as recreation vehicles Class IV property or Class II property?

A: Vans owned by individuals and used as recreation vehicles by the owner thereof are Class IV property.

Q: 21. Should rural acreage which is dormant as to use except the growth of natural vegetation not visibly being use for any agricultural purpose nor for production of forest products be assessed as Class II property?

A: If the land is fallow on a plan of rotation of crops it is in agricultural use. However, if it is left fallow year after year it becomes Class II property, subject to administrative regulations reasonably interpreting the law.

Q: 22. In what class is a small tract of land located within the zoning authority of a municipality, zoned commercial, and not used for utility purposes, or for the production of agricultural or forest products or for residential purposes.

A: Class II.

Q: 23. Act 6, Section 1, Subsection c, the amendment to Section 217 of the Constitution, permits an adjustment of the assessment ratio, and section 3 of Act 46 sets out criteria in subsections (a), (b) and (c). When may such adjustments be made?

A: Section 1, Subsection c of Act 6 provides, inter alia, that for the tax year beginning October 1, 1978, the taxing authority may, not later than September 30, 1979, increase or decrease the assessment ratio applicable to any class effective for tax years beginning on and after October 1, 1978, subject to criteria established by the legislature. The criteria referred to are set out in Act 46, Section 3, subsections (a), (b) and (c).

If the taxing authority makes the adjustment permitted between October 1, 1978, and September 30, 1979, and the receipts from the ad valorem taxes levied by said taxing authority during the tax year beginning October 1, 1978, exceed the receipts from such taxes for the year beginning October 1, 1977, by more than 5% or are less than 95% of the receipts for the year beginning October 1, 1977, the taxing authority may, no later than September 30, 1980, adjust the assessment ratio applicable to any class, for tax years beginning on and after October 1, 1979, again subject to the criteria set out in Act 46, Section 3, subsections (a), (b) and (c).

If for either of the tax years beginning October 1, 1978, and October 1, 1979, the taxing authority has increased any millage rate under Section 1, subsection (e) of Act 46, then it cannot decrease the assessment ratio for that tax year.

Furthermore, on and after October 1, 1979, a taxing authority may, subject to the criteria of Act 46 above referred to, change the assessment ratio applicable to any class of taxable property by holding a public hearing on the proposal, after which it is formally proposed, approved by an act of the legislature and approved by the voters in the taxing authority at a special election. In any event, however, the criteria established in Act 46, Section 3, subsections (a), (b) and (c) must be met before the assessment ratio can be changed.

Q: 24. When adjustments are made as permitted in Act 6, Section 1, subsection c, and Act 46, Section 3, may the assessment ratios for like classes of property differ between the several taxing authorities in a county?

A: Yes.

Q: 25. Under Acts 6 and 46 can both the assessment ratio and the millage be adjusted?

A: Yes. However, no decrease in an assessment ratio shall be permitted with respect to either of the ad valorem tax years beginning October 1, 1978, and October 1, 1979, if the taxing authority has increased any millage rate with respect to such ad valorem tax year. If millage is increased, assessment ratios cannot be decreased.

Q: 26. What is the last date on which a taxing authority may adjust assessment ratios and millage without approval by the legislature and a vote of the people?

A: The last date on which a taxing authority may adjust assessment ratios and millage in such manner is September 30, 1979 except that if an adjustment is made prior to September 30, 1979, a further adjustment may be made prior to September 30, 1980. Millage rates may be adjusted downward at any time.

Q: 27. Does Act 6, Section 1, subsection e, permit a taxing authority to levy not later than September 30, 1980, additional millage which will produce not more than 20% additional revenue than that received for the tax year beginning October 1, 1977, without legislative approval and a vote of the electors?

A: No. Subsection e permits an increase in mills calculated so that (1) when added to existing mills the increase will produce revenue not less than, and substantially equal to the revenue actually received by the taxing authority during the immediately preceding tax year, plus (2) a number of mills equal to 20% of the mills imposed by the taxing authority for the tax year beginning October 1, 1977. This may or may not result in a 20% increase in revenue receipts. If the millage is increased for tax year beginning October 1, 1978, and the receipts for that year are less than 95% of the receipts for the tax year beginning October 1, 1977, the taxing authority may, acting not later than September 30, 1980, increase the millage again, as discussed above. If an adjustment to millage is not made on or before September 30, 1979, no upward adjustment can be made pursuant to subsection e.

Q: 28. Is it the intent of the provisions of Act 6, Section 1, subsection e, to permit the counties to receive an increase of ad valorem tax revenue to the extent of 20% more than they received for the tax year beginning October 1, 1977?

A: No. The intent of this section is to allow a local adjustment of tax rates for a limited period of time to take into consideration, at the local level, the effect of the reappraisal program, the constitutional amendment and its implementing statutes without having to go to the Legislature.

Q: 29. How are these provisions, subsections c and e, to be applied in those counties where appraisal for the tax year beginning October 1, 1977, was based upon values developed in the course of the reappraisal program?

A: The provisions are to be applied in these counties in the same manner as for any other county.

Q. 30. What are the procedures to be followed in making the adjustments permitted in subsections c and e of Section 1, Act 6?

A: The procedures are set forth in Act 6 and in Act 46. The adjustments which may be made by the taxing authority during 1979 and 1980 should be made by resolution of the governing body of the taxing authority. Other adjustments pursuant to Act 6, subsections c

and e require public hearing, legislative enactment and popular election.

Q: 31. Act 46, Section 1, subsection e, requires that the tax assessor certify to each taxing authority within his county that levies an ad valorem tax the amount of ad valorem tax that will be produced by every levy in that tax year (excluding new taxable property not previously subject to tax). The section says only that this is to be done "when the tax assessor . . . shall compile . . . the assessment book . . ." Specifically, when must that certificate be given?

A: Section 40-7-35 requires that the tax assessor furnish an abstract not later than the second Monday in August. It is reasonable to expect the certificate required by Act 46, Section 1, subsection e, to be made by that same date.

Q: 32. Act 6, Section 1, subsection e, and Act 46, Section 3, use the word "receipts." Does this mean the actual tax collected by the tax collector?

A: Yes.

Q: 33. If an owner of farm, timber, single-family owner-occupied residential or historic building and site property fails to elect, prior to December 31 of each year, current use valuation with respect to that property, does the property automatically become Class II property instead of Class III property?

A: No. Current use valuation is available only for Class III property and the election or failure to make an election of current use valuation does not affect the classification of the property.

Very truly yours,

CHARLES A. GRADDICK
Attorney General

January 29, 1979

Honorable Larry Bennett
Commissioner
Board of Corrections
Montgomery, Alabama 36130

Board of Corrections—Pardons and Paroles

A pre-conviction jail credit under Code of Alabama 1975, §15-18-5 is limited to jail time spent pending trial of the offense for which the inmate is being sentenced.

Opinion by Assistant Attorney General Carnes.

Dear Commissioner Bennett:

In a letter dated November 15, 1978, you requested an opinion from this office concerning the interpretation of Code of Alabama 1975, §15-18-5. Your request is as follows:

> Request an opinion to be furnished by your office relative to the awarding of Jail Credit under ACT 677 (Regular Session 1976) in those cases where an individual is serving on concurrent sentences and has been awarded Jail Credit by the Court of different amounts on more than one of the concurrent cases.
>
> Section 1 of the referred Act reads: "Upon conviction and imprisonment for any felony or misdemeanor, the sentencing Court shall order that the convicted person to be credited with all of his actual time spent incarcerated pending trial for such offense. The actual time spent incarcerated pending trial shall be certified by the Circuit Clerk, on forms to be prescribed by the Board of Corrections."
>
> Request specifically an opinion as to whether Jail Credit for a specific case can be credited only when the release date is computed for that particular case. Or —
>
> In cases running concurrently and an individual has been given Jail Credit in more than one case, is it proper to combine the amount of Jail Credit awarded by the Court on all cases and deduct the total amount of Jail Credit from the case being used as a basis for computing release dates.

It is the official opinion of this office that it is not proper to combine the amount of jail credit awarded by the Court on all cases for which a prisoner is receiving concurrent sentences and deduct the total amount from the case being used as a basis for computing the prisoner's release date.

Prior to the enactment of the statute which is presently codified as Code of Alabama 1975, §15-8-5, an inmate in Alabama was not entitled to credit against his penitentiary sentence for the amount of time which he had spent in jail awaiting trial. **See, Jackson v. State of Alabama,** 530 F.2d 1231, 1234-1237 (5th Cir. 1976). It follows that the amount of credit which an inmate receives for pre-conviction jail time is that which is provided by the statute. The relevant language, which is contained in the first sentence of §15-18-5, is as follows:

> Upon conviction and imprisonment for any felony or misdemeanor, the sentencing court shall order that the convicted person be credited with all of his actual time spent incarcerated pending trial **for such offense. . . .** (Emphasis added).

The statute itself explicitly states that the amount of the credit shall

be the time that the inmate spent incarcerated awaiting trial for the offense for which he has been sentenced. The statute does not make any provision for increasing the time credited when the prisoner is receiving one or more sentences to run concurrently. Therefore, any time which an inmate spent in jail when he was not awaiting trial on the offense which is used as a basis for computing his release date is not deducted from his sentence.

I hope that this opinion answers your questions adequately.

Sincerely,

CHARLES A. GRADDICK
Attorney General

January 31, 1979

Honorable Jack Floyd
Etowah County Attorney
816 Chestnut Street
Gadsden, Alabama 35901

Competitive Bid Law—Contracts—County Commission

A place of business within a county constitutes a resident responsible bidder.

Opinion by Assistant Attorney General Lawley.

Dear Sir:

This letter is in response to your letter dated January 24, 1979, the pertinent part of which is as follows:

> "Prior to September 12, 1978, notices were given that sealed bids would be received by the Etowah County Commission at its office in the Etowah County Courthouse in Gadsden, Alabama, for furnishing tires and tubes, to be purchased by the Etowah County Commission in performing its functions and duties during the fiscal year 1978-79. I enclose herewith a copy of that bid advertisement or notice.
>
> When bids were opened on September 12, 1978, Firestone Tire and Rubber Company was the apparent low bidder. Based upon its low bid, a Resolution of the Commission awarded the bid to Firestone Tire and Rubber Company.
>
> For many years Goodyear Tire and Rubber Company, which operates a local plant, was the low bidder and furnished tires to the Etowah County Commission. If there is any way under the law for Goodyear to furnish tires, the County Commission wishes to do so.

We need an opinion from your office advising whether or not the Etowah County Commission followed the procedures required by the bid law in advertising and awarding the contract to the low bidder; whether or not the Resident Responsible Bidder Provision applies in this situation; and whether or not the Etowah County Commission can rescind the contract awarded to the low bidder."

The Etowah County Commission is subject to the competitive bid law found in **Code of Alabama 1975,** Section 41-16-50 through Section 41-16-63. The competitive bid law requires all county commissions in Alabama to award purchase contracts to the lowest responsible bidder. When the awarding authority is a county commission, and the lowest responsible bidder does not have a place of business within the county, a county commission may then purchase from a person, firm or corporation having a place of business within the county if such vendor's bid is no more than three percent greater than the bid of the lowest responsible bidder. However, it is my understanding that in the present situation the lowest responsible bidder is Firestone Tire and Rubber Company which has a place of business in Etowah County. In Quarterly Report of the Attorney General, Volume 144, page 31, the term "resident responsible bidder" was defined as a person, firm or corporation deemed to be a responsible bidder, having a **place of business** within the county where the awarding authority is the county. (Emphasis added) Therefore, the resident responsible bidder provision would not be applicable in your situation since both bidders have places of business within Etowah County. The fact that Goodyear Tire and Rubber Company has a manufacturing plant in Etowah County does not alter this conclusion.

In summary, it is my opinion that the Etowah County Commission followed the procedures required by the competitive bid law in awarding the contract for the purchase of tires and tubes from the Firestone Tire and Rubber Company which was the lowest responsible bidder. Also, the resident responsible bidder provision of the competitive bid law is not applicable in this situation and the Etowah County Commission does not have legal authority to rescind the contract that has been awarded to the Firestone Tire and Rubber Company.

If I may be of any further assistance to you in this matter, please let me know.

Very truly yours,

CHARLES A. GRADDICK

Attorney General

February 2, 1979

Mr. James Record, Chairman
Madison County Commission
Madison County Court House
Huntsville, Alabama 35801

Madison County—Funds

County may make short term investments of funds temporarily held.

Opinion by Assistant Attorney General Lurie.

Dear Mr. Record:

Your request of January 24, 1979 pertaining to investment and income therefrom for funds held by Madison County pending distribution has been received.

It is the opinion of this office that the funds held by the Tax Collector and the License Director of Madison County may be invested in U. S. Certificates and/or savings accounts during the time said funds are held pending distribution as directed by statute.

The provisions of **Code of Alabama 1975,** §11-81-21 provide as follows:

> "Any municipal funds or county funds not presently needed for other purposes may be invested in any obligations in which sinking funds are now authorized to be invested, pursuant to section 11-81-19, including appreciation bonds issued by the United States of America on a discount basis.
>
> "The terms 'municipal funds' and 'county funds' as used in this section shall include all general, special, permanent, trust and other funds, regardless of source or purpose, held or administered by "any county, city or town, or by any officer or agency thereof, in the state of Alabama.
>
> Investments of municipal funds or county funds shall be made by the officer or agency controlling their disposition. Such county, city or town, or official or agency thereof, may at any time sell such obligations purchased pursuant to this section, and the money received from such sale and the interest and profits on such investment shall be credited to the fund from which the investment was made. Any such obligation may be deposited for safekeeping with any bank, trust company or savings and loan association organized either under the laws of the state of Alabama or of the United States."

It is the further opinion of this office that the proceeds of such investment may be placed in the county general funds and expended in the same manner and for the same purposes as amounts collected for ad valorem taxes and licenses.

The funds withheld for social security purposes may also be invested in the same manner as those collected for ad valorem taxes and licenses however, such income from investment of social security funds should be credited to the funds from which the investment is made and used to defray the expenses for that particular function and any funds remaining should be used by the county for its contribution to social security for its employees. The restriction on the use of the social security funds is due to the fact that said funds are not county funds in the sense that those collected for licenses and ad valorem taxes are considered to be.

This office commends you for taking advantage of every opportunity to provide funds for the operation of Madison County.

Yours very truly,

CHARLES A. GRADDICK
Attorney General

February 6, 1979

Honorable Allen L. Tapley
Administrative Director of Courts
817 South Court Street
Montgomery, Alabama 36130

Judicial Article—Clerks and Registers—Costs and Fees

Clerks and registers cannot receive commissions under Section 16-133(b) of Act No. 1205, 1975 Regular Session.

Opinion by Assistant Attorney General Stephens

Dear Mr. Tapley:

I am replying to your opinion request as to whether or not **Code of Alabama 1975,** §12-19-22 authorizes clerks and registers to collect **commissions** as well as fees on cases filed before January 16, 1977.

It is my opinion that clerks and registers are not authorized to receive commissions on cases filed before January 16, 1977.

With the implementation of the new Judicial Article all court clerks and registers were placed on salary. Prior to that time many clerks and registers were compensated on a fee basis. A question then arose concerning the disposition of fees on cases which had been filed before the implementation date, January 16, 1977.

As you know, on March 10, 1977, this office issued an opinion to the Honorable Charles Cameron stating that if a clerk or register was entitled by law to collect a **fee** before the Judicial Article was imple-

mented on January 16, 1977, he can collect that fee from any case which was filed before that date. Subsequently, we received your formal request for a clarification of this opinion, specifically with regard to whether or not our opinion of March 10, 1977, should include **commissions** as well as fees.

Code of Alabama 1975, §12-19-20(b) provides:

> "In all cases filed prior to January 16, 1977, in the Circuit Court or courts abolished by Acts 1975, No.1205, all fines, costs and fees shall be assessed and distributed according to law in existence on date of filings, including monies collected on or after January 16, 1977."

It is my opinion that the Legislature intended by this provision to preserve for clerks and registers all that compensation which the clerks and registers had earned by the performance of their duties prior to January 16, 1977, but which they had not yet in fact been paid. I do not believe that it was the legislative intent to provide periodic continuous payments to clerks or registers for services which they did not in fact perform after January 16, 1977. Commissions generally are recurring payments to clerks provided as compensation for the performance of some duty, e.g., for the collection and remittance of child support payments. Of course, those clerks and registers who are now serving in such capacities and who are performing these recurring duties are compensated for that performance by their prescribed salaries.

There has been considerable confusion concerning the disposition of these commissions and I very much hope that this opinion will help to clarify this matter and that the judicious administration of the principles expressed in this opinion will be fair and equitable to all persons concerned.

Sincerely,

CHARLES A. GRADDICK
Attorney General

February 23, 1979

Honorable Robert E. Albright
State Representative
2024 Stanhope Drive, N.E.
Huntsville, Alabama 35811

Courts—Juries

The ten dollar per day payment for jury service authorized in Section 12-19-210, **Code of Alabama 1975,** is an expense allowance rather than a fee, and as such is not deductible from a juror's salary.

Opinion by Assistant Attorney General Breland

Dear Mr. Albright:

I have received your request for an opinion from this office, dated February 2, 1978, which reads as follows:

> "One of my constituents who works at Chrysler Corporation in Huntsville, Alabama recently served on jury duty and received his straight time hourly rate from Chrysler pursuant to his collective bargaining agreement. Chrysler Corporation deducted from the payment to its employee the amount received by the employee from the circuit court clerk in Madison County for jury duty which the employee had performed. The employee, who is my constituent, has asked me to write to you to determine whether, under the **Code of Alabama, Section 12-19-210,** any amount **should** have been deducted from the straight time earnings provided by the employer.
>
> It appears that the Chrysler Corporation is taking the position that the amount provided by the circuit clerk in Madison County is a jury duty fee and is ignoring the fact that the jury duty fee does not include travel allowance or reimbursement of expenses. The question I have is whether, under **Section 12-19-210** of the **Code of Alabama,** the 'dollar expense' allowance and '5¢ for each mile traveled' are for travel allowances or expenses rather than for a fee for jury duty service."

In answer to your question, it is my opinion that the $10.00 per diem payment for a jury duty service is an expense allowance rather than a fee. Section 12-19-210, **Code of Alabama 1975,** which provides for the per diem allowance, was amended in 1977. See Acts 1977, No. 759, p. 1299. The amendment specifically inserted the words "expense allowance" after $10.00 in the first sentences of §12-19-210, and substituted "expense allowance" for "compensation" near the end of the second sentence, thus evidencing a clear intention by the Legislature that this payment be considered an expense allowance rather than a fee. Under Section 12-16-8, **Code of Alabama 1975,** a fee or compensation received for jury duty shall be subtracted from the employee's normal salary. This section does not, however apply to an expense allowance.

It should further be noted that subsection (b) of the 1977 amendment provides that it shall be retroactive to May 23, 1977. Thus, if your constituent served on jury duty after this date, he or she would be entitled to a reimbursement.

Sincerely,

CHARLES A. GRADDICK
Attorney General

February 26, 1979

Mr. L. Brooks Hines
Member, House of Representatives
District 91
P. O. Box 345
Brewton, Alabama 36426

County Commissioners—Legislation—Advertising—

Local bill may be advertised in more than one newspaper.

Opinion by Assistant Attorney General Lurie

Dear Representative Hines:

Your request of January 30, 1979 has been received and you have asked the following question:

> "I live in a house district that has three newspapers with little if any overlapping circulation. To serve the intent of the law requiring the advertisement of bills, it seems advisable to me that these bills should be advertised in all three papers in the county. I would like to know whether it is legal for the Escambia County Commission to pay for the legal advertisement of a proposed act in more than one paper."

It is the concensus of this office that the provisions of the Constitution of Alabama 1901, Amendment No. 341, together with statutory legislation found in Code of Alabama 1975, §§6-8-60, 11-13-6 lead to the conclusion that the publication required for the advertising of proposed legislation is not limited to one newspaper in the county.

From the above provisions of law it appears that publication in more than one newspaper in the county is not prohibited. The established requirement is that it be published in a newspaper printed in the English language which has a general circulation in the county and it has not been determined by legislation that the requirement be met by publication in only one newspaper. Hence, the county may pay for such publication in more than one newspaper.

It is hoped that the above statutory interpretation will be helpful to you in the presentation of local legislation for your county.

Sincerely,

CHARLES A. GRADDICK
Attorney General

March 12, 1979

Honorable David Vann
Mayor
City of Birmingham
Jefferson County
Birmingham, AL 35203

Municipalities—Birmingham—Tort Liability—Public Funds

Municipalities may self insure and/or pay tort claims or judgments directly out of public funds.

Opinion by Assistant Attorney General Hutner.

Dear Mayor Vann:

Your request of March 1, 1979 for an opinion has been received by the Office of the Attorney General. Your letter of requests reads in pertinent part as follows:

> "(a) Whether or not a municipality may pay directly out of public funds tort claims or judgments against its officers and employees which arise out of the performance of their duties and in the line and scope of their employment; or
> "(b) May a municipality self-insure its officers and employees out of public funds against tort liability which may arise out of the performance of their duties and in line and scope of their employment, either as an employee benefit or in the municipality's employee relations?

The conclusion of this office, based upon existing statutory, and case law and prior opinions of this office, is that a municipality may do either A or B of your request.

This office has heretofore held that a municipal governing body has the authority to use municipal funds to pay for the expense of defending its officers in lawsuits which involve the actions of such officers in performing their official duties. Said opinions have been based upon the case of **City of Birmingham vs. Wilkinson,** 239 Ala. 199, 194 So. 548.

Further certain opinions issued by this office have held that municipalities may, in their discretion, pay judgments against employees if the following tests are met. The corporation must have a proper interest in the action. The acts allegedly committed must have been done by the officials or employees in the discharge of their corporate duties. And the official or employees in performing said duties must have acted honestly and in good faith. **City of Birmingham vs. Wilkinson,** 239 Ala. 199, 194 So. 548 (1949): **City of Montgomery vs. Collins,** _____ Ala. _____, _____ So. 2d _____ (12 ABR 572, 1978). See opinion to Honorable Vernon N. Schmitt, City Attorney, Post Office Box 521, Leeds, Alabama 35094.

Other opinions of this office have permitted the expenditure of state funds for the purchase of general liability insurance for certain county and municipal employees; See opinion to A. R. McVay, Superintendent, Baldwin County Board of Education, under date of December 5, 1976; Opinion to Maxey J. Roberts, Attorney, University of South Alabama under date of February 18, 1976; Opinion to Frank Ellis, Wallace, Ellis, Head & Fowler, under the date of October 16, 1975; Opinion to James C. Sawyer, Judge of Probate and Chairman of Coffee County Commission, under date of October 14, 1972.

There is no legal or logical distinction between using state funds to pay insurance premiums and/or self insure and using public funds to pay a judgment resulting from the same kind of liability that could be self insured.

This office recognizes that as a matter of policy, public officers and employees need some degree of protection. Failure to provide such would result in an exodus of some very qualified and dedicated people.

Yours very truly,

CHARLES A. GRADDICK
Attorney General

March 20, 1979

Honorable James C. Bailey
President
Wallace State Community College
P. O. Box 250
Hanceville, Alabama 35077

Contracts—Competitive Bid Law—Colleges and Universities

There is no authority to change the bid specifications and negotiate a reduction of the contract price with the low bidder.

Opinion by Assistant Attorney General Robinson

Dear Sir:

In a recent letter addressed to this office, you asked for an opinion regarding the competitive bid law. See **Code of Alabama 1975,** Section 41-16-50 through Section 41-16-63 and **Code of Alabama 1975,** Section 39-2-1 through Section 39-2-13. Your letter reads, in pertinent part, as follows:

> "On April 3, 1978, Wallace State Community College issued bonds for $1,000,000.00. These funds were designated for the

construction of an Auditorium, Student Center/Music Department building.

Bids for the project were opened June 27, 1978 and Perimeter Construction Company of Birmingham was the low bidder at $1,714,400.00. A summary of the results of the bids is enclosed for your review.

Negotations have taken place to reduce the bid to $1,499,320.00. The reductions are within 10% of the base bid. This action if favorable will allow us to begin construction soon. The $1,000,-000.00 from the bond issue and an additional $500,000.00 from the TSJC authority will be used.

A copy of the contract and contingent agreement is enclosed for your review and I need your opinion on the following at your earliest convenience.

1. The legality of the negotiation reduction.
2. Is it legal to execute a contract after a lapse of time, 6/27/78 to 8/11/78?
3. Does the length of time (450 days) for construction violate any state laws?
4. Is the contingent clause legal under Alabama laws?

. . . ."

There is no legal authority to change the bid specifications and negotiate a reduction in the contract price with a low bidder. In the event that bids are taken on a project, and the lowest bid is in excess of the amount of money available for the project, then the project must be rebid. When rebidding the project, the specification should be redrawn in order to solicit bids which will be within the budget available for the proposed project. Any previous opinions issued by this office which are in conflict with this opinion are hereby overruled. As to the other three questions which you asked, it is my opinion that these three items would not be illegal.

It should be noted that this opinion does not affect previous Attorney General opinions which address situations where the construction of a project is in progress and a change order is necessary due to exigent circumstances. Many construction projects require that change orders be granted because of matters not contemplated at the time the contract was awarded to the low bidder. This opinion merely prohibits the awarding authority and the contractor from negotiating a change in the specifications to require less work at a time when no exigent circumstances exist. Of course, if the low bidder wanted to construct the building according to the original specifications at a reduced price, this would not be prohibited by the competitive bid law.

If I may be of any further assistance to you regarding this matter,

please do not hesitate to contact me.

Very truly yours,

CHARLES A. GRADDICK
Attorney General

March 20, 1979

Alabama Board of Cosmetology
c/o Ms. Billie K. Jehle
Executive Secretary
500 Dexter Avenue
Montgomery, Alabama 36130

Regulatory Boards—Board of Cosmetology—Administrative Law

Statutes granting regulatory authority over occupational pursuits will be interpreted strictly and regulatory authority will be recognized only to the extent specifically granted by the Legislature.

Opinion by Assistant Attorney General Stephens.

Dear Ms. Jehle:

The Board of Cosmetology has requested an Attorney General's opinion advising it whether shops which apply artificial nails to customers are subject to the license and regulation requirements of the State Cosmetology Act and, thus, required to obtain a beauty salon license and comply with regulations set by and enforced by the Cosmetology Board.

Section 34-7-1 defines "cosmetology" as "any one and/or a combination of practices generally and usually, heretofore and hereafter performed by, and known as the profession of beauty culturists, cosmeticians, cosmetologists, hairdressers or of any other person holding himself or herself out as practicing cosmetology by whatever designation and within the meaning of this chapter . . ." "Cosmetology" includes "manicuring the nails of any person." A "manicurist" is defined as "any person who engages only in the practice of manicuring the nails of any person." §34-7-1(4).

Section 34-7-2 makes it unlawful for any person to engage in the practice of cosmetology as a manicurist unless he has first obtained a license from the Alabama Board of Cosmetology. Section 34-7-4(2) requires that a manicurist shall be licensed to practice only after he has paid a fee and has completed a course of training set forth in that statute. The shop wherein a manicurist practices cosmetology must also meet the Board's standards. §§34-7-3, 34-7-5, 34-7-16.

The Cosmetology Act itself does not define the terms "manicure," "manicurist" or "manicuring." However, Webster's Third New International Dictionary defines manicure as "a treatment for the care of the hands and nails usually including massage of the hand and cleaning, shaping and polishing of the nails."

The practice in question here does not involve cutting or polishing nails. Rather, the practice involves the application of artificial nails by the application of a substance which will form an artificial nail. The artificial nail is then shaped and polished.

Regulation is the antithesis of freedom and is inconsistent with our professed beliefs and our proclaimed individual rights. The right to pursue an occupation of one's choice is an essential element of personal freedom. The state's limited authority to regulate an individual's pursuit of his occupation or profession may properly be based only upon the police power of the state to protect the health and safety of the general citizenry and the state may regulate only to the extent necessary to accomplish that protection. As Justice Collier stated in **In the Matter of J. L. Dorsey,** 7 Porter 293, 281 (1838):

> "The most arbitrary and vexatious inventions of tyranny, are those regulations of law, which interfere with the domestic concerns of society, by preventing the citizen from the pursuit of happiness in his own mode. The 'pursuit of happiness' is asserted in the Declaration of Independence, to be an inherent right; and is promulgated as a self-evident truth. And certainly if that expression means anything, it must include the right to select which of the various avocations or pursuits in life a young man will engage in; his future destiny, and his value to the State, as one of its members, demands the utmost freedom of choice; and it is, therefore, of the highest importance, in a free government, that this right of choice should not be impaired. . . ."

Some state regulation is essential to protect the health and safety of the citizens of this state. However, in recent years there has been a growing concern about the expanding regulatory authority of government, a concern that much of this regulation unduly restricts personal freedom and is not necessary for the protection of the health and safety of our citizens.

It will be the policy of this office in interpreting regulatory statutes to interpret them strictly and consistently with the only permissible constitutional purpose of protecting the health and safety of citizens of his state. Statutes will not be interpreted broadly to provide regulation where the Legislature in its enactment has not clearly provided such regulation and where such regulation is not clearly necessary to protect the health and safety of the citizens of this state.

The statutes regulating the practice of cosmetology in this state

do not clearly include the practice of applying artificial nails in the manner discussed above nor is such regulation clearly necessary to protect either the health or safety of our citizens. Therefore, it is my opinion that the application of artificial nails is not subject to the licensing and regulatory requirements of the Cosmetology Law.

Sincerely,

CHARLES A. GRADDICK
Attorney General

March 27, 1979

Honorable Boyd Whigham
Attorney
Town of Clio
104 Court Square
Clayton, Alabama 36016

Municipalities—Clio—Conflicts of Interest

Town may not purchase land from Mayor.

Opinion by Assistant Attorney General Smith.

Dear Mr. Whigham:

This office has received the opinion request of February 7, 1979. You ask if the Town of Clio may purchase one-half acre of land from the Mayor of Clio at a fair and reasonable price of $3,000.00. Your opinion request states very clearly that the mayor was not present at the council meeting where the purchase of the land was discussed. You also note that this land is to be used as the site for a water storage tank and that "the site for the tank was determined by David Hicks, Hicks and Associates, Abbeville, Alabama, and that said site was determined solely on the elevation and other technical aspects of the Water System."

Code of Alabama 1975, §11-43-12, in pertinent part, states:

> No alderman or officer or employee of the municipality shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the treasury . . .

While this office is cognizant of the possible difficulties which may arise under the particular facts presented in your request, the prohibition found in Section 11-43-12, supra, is absolute and prevents the mayor from contracting with the town for the sale of land owned by him. It is, therefore, the opinion of this office that the Town of Clio may not purchase the one-half acre site from the Mayor.

I do hope that this response fully answers your questions. If, however, we may be of further assistance, please do not hesitate to call on us.

Very truly yours,

CHARLES A. GRADDICK
Attorney General

March 27, 1979

Mr. Larry D. Bennett
Commissioner
State of Alabama Board of Corrections
Montgomery, Alabama 36130

Prisons and Prisoners—Board of Corrections—Jail Credit

1. Combining the amount of jail credit on a prisoner's various cases is permissible only when the sentences for the various cases are to run consecutively.

2. A prisoner's various cases run concurrently only when the court specifically so states.

3. Alabama sentences may not run concurrently with sentences in other states.

4. A prisoner sentenced pursuant to Act No. 754, Acts of Alabama 1975, page 1038 is not entitled to the good time credit provided in Act No. 214, Acts of Alabama 1975, page 485.

Opinion by Assistant Attorney General Belcher

Dear Mr. Bennett:

I have received your request for an opinion from this office, dated February 8, 1979, which reads, verbatim, as follows:

I.

"Question #1 — Request specifically an opinion as to whether Jail Credit for a specific case can be credited only when the release date is computed for that particular case. Or —

"In cases running concurrently and an individual has been given Jail Credit in more than one case, is it proper to combine the amount of Jail Credit awarded by the Court on all cases and deduct the total amount of Jail Credit from the case used as a basis for computing release dates.

"Question #2 — Where Jail Credit has been awarded on each

of two or more concurrent cases; is it proper to compute a release date for each case, using the amount of Jail Credit awarded in that case, and release the individual based on the release date most distant from the current date."

II.

"Computation of Time on Concurrent Cases

"14-3-3 Alabama Code states in part:

"(b) When the judgment sentence contains a fixed order that the term shall run concurrently, such sentences shall run concurrently from the date on which such convict is received for serving of the sentences as prescribed above.

"(c) 'In case the prison record of a convict serving two or more sentences consecutively is good, he shall be discharged at the expiration of the longest term of imprisonment to which he was sentenced, less any deduction therefrom accorded him pursuant to sections 14-9-1 through 14-9-3.'

"Request specifically an opinion to indicate whether cases running concurrently with a case but not specifically running concurrent with each other should be considered as running concurrent with each other, or

"If cases running concurrent with a case but not specifically running concurrent with each other should be considered as consecutive cases when computing time."

III.

"Alabama Sentences Running Concurrent with Sentences in Other States

"May Alabama sentences run concurrently with sentences in other states?

"ACT 86 (Second Special Session, 1975) enacted legislation whereby Alabama sentences may run concurrently with Federal sentences. However, it appears that no such legislation has been enacted to cover Alabama sentences running concurrently with sentences in another state."

IV.

"Split Sentencing

"Question #1 — Where an individual is sentenced under ACT 754 to specified periods of confinement and probation by the court, is the individual entitled to Good Time Credit under provisions of ACT 214 (Third Special Session — 1975).

"Question #2 — May individuals sentenced under ACT 754

earn Incentive Good Time if otherwise qualified under provisions of ACT 182 (Regular Session — 1976)."

In answer to the first question presented in the first part (I) of your request, it is my opinion that, when cases run **concurrently,** and an individual has been given jail credit in more than one case, it is **improper** to combine the amount of jail credit awarded by the court on all cases and deduct the total amount of jail credit from the case used as a basis for computing release dates. **Code of Alabama 1975,** §14-9-1 reads, in part:

> **"When a prisoner is serving two or more terms of imprisonment and the sentences run consecutively, then all such sentences shall be combined** for the purpose of computing deductions for good conduct and release date; however, the actual deduction from sentence for good conduct provided by this section shall apply only to sentences being served and to be served.
>
> **"When a prisoner is serving two or more sentences which run concurrently, the longer term shall be considered the term to which such prisoner is sentenced for the purpose of computing such good conduct deductions.** When computing the deductions allowed in this section on indeterminate sentences the maximum sentence shall be the basis for the computation." [Emphasis added]

Thus, the "combining" of sentences and deducting the total amount of jail credit as a basis for computing release dates may be done only when the sentences are to run **consecutively,** not concurrently.

In answer to the second question presented in the first part (I) of your request, it is my opinion that where jail credit has been awarded on each of two or more concurrent cases, it is **proper** to compute a release date for each case, using the amount of jail credit awarded in that case, and release the individual based on the release date most distant from the current date. See again **Code,** supra.

In answer to the questions presented in the second part (II) of your request, I must call your attention to the fact that your cite and quoting of **Code of Alabama 1975,** §14-3-3 is in error. The correct Code section is §14-3-38; your paragraph "(b)" is actually "(a)"; your paragraph "(c)" is actually "(b)"; and your verbatim quoting of (b) (which is your (c)) is incorrect. **Code of Alabama 1975,** §14-3-38 reads, in part, as follows:

> "(a) When a convict is sentenced to imprisonment in the penitentiary on two or more convictions, unless it is specifically ordered in the judgment entry that such sentences be served concurrently, such sentences shall be cumulative and shall be served consecutively, the first term thereof beginning to run

from the date on which such prisoner is received at the penitentiary, reformatory jail for service of the sentence or at some place of detention to await transportation to the place where his sentences are to be served and his second and subsequent terms, each, beginning on the expiration of the preceding term. When the judgment sentence contains a fixed order that the term shall run concurrently, such sentences shall run concurrently from the date on which such convict is received for serving of the sentences as prescribed above.

"(b) In case the prison record of a convict serving two or more sentences consecutively is good, he shall be discharged at the expiration of the last term of imprisonment to which he was sentenced, less any deduction from the sentences accorded him pursuant to sections 14-9-1 through 14-9-3."

In answer to the first question presented in the second part (II) of your request, then, it is my opinion that cases **do not** run concurrently with each other unless it is so stated specifically. Without a specific statement to that effect by the court, all cases are to run consecutively.

Accordingly, then, my preceding answer should suffice in answering the second question presented in the second part (II) of your request.

In answer to the question presented in the third part (III) of your request, it is my opinion that Alabama sentences **may not** run concurrently with sentences in other states. Act No. 86, Acts of Alabama 1975, page 221, reads, in part, as follows:

"Section 1. When an offender who is under sentence from a federal court is convicted in a state court, the state judge, in his discretion, **may impose a sentence to be served concurrently with the federally imposed sentence,** in the federal penal system." [Emphasis added]

As seen from the above, the Act specifically refers to ". . . a [State of Alabama] sentence to be served concurrently with the federally imposed sentence . . ." No mention nor reference is made in this Act, or any of the other Acts of Alabama, to a State of Alabama sentence being served concurrently with another state's sentence. The **Code of Alabama 1975** also omits such a reference. Had such a reference been intended, it could have easily been made. Thus, its omission, on the part of the Alabama Legislature, was deliberate and intentional.

In answer to the first question presented in the fourth part (IV) of your request, it is my opinion that when an individual is sentenced by the court pursuant to Act No. 754, Acts of Alabama 1975, page 1038, to specified periods of confinement and probation, that individual **is not** entitled to the good time credit provided for in Act No. 214, Acts of Alabama 1975, page 485. Act No. 754, Acts of Alabama 1975, page 1038

reads, in part:

> "When a defendant is convicted of an offense and receives a sentence of ten years or less, in any court having jurisdiction to try offenses against the State of Alabama, and the judge presiding over the case is satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, he may order that the convicted defendant be confined in a prison, jail-type institution, or treatment institution for a period not exceeding one year and that the execution of the remainder of the sentence be suspended and the defendant be placed on probation for such period and upon such terms as the court deems best."

The title to this Act states that the Act ". . . authorizes the courts to impose a minimum term for imprisonment . . ." Were a prisoner entitled to a deduction of good time credit from the court imposed sentence, it would result in a minimum term other than the minimum term imposed by the court. This Act clearly establishes an absolute minimum and an absolute maximum (i.e., per the language ". . . for a period not exceeding one year . . ."), and the minimum term is not subject to a reduction by awarding the prisoner good time credit.

Accordingly, then, my preceding answer should suffice in answering the second question presented in the fourth part (IV) of your request.

Sincerely,

CHARLES A. GRADDICK
Attorney General

March 27, 1979

Mr. Alonza Harvey, Superintendent
Macon County Board of Education
P. O. Box 90
Tuskegee, Alabama 36083

Education—Macon County Board of—Public Meetings

Informal meetings of board of education must be open to the public.

Opinion by Assistant Attorney General Knight.

Dear Mr. Harvey:

I am replying to your request for an opinion from the Attorney General concerning informal meetings of the Macon County Board of Education.

You specifically asked:

> The Macon County Board of Education is currently involved

in developing a policy and procedure manual for use in our school system. In developing this manual, the Board of Education has been gathering informally to discuss the manual and give the Superintendent some suggestions and guidance for further revisions. No motions are made or voted upon during these work sessions.

We plan to have a regular meeting when the Superintendent will submit the policy and procedure manual for adoption, amendment, etc. At that time the Board members may submit amendments to the manual which will be voted upon by the full Board. However, a question has now arisen regarding these informal work sessions and we need your advice. The question is: Must informal work sessions, at which no motions or votes are made, be open to the general public?

Your question is to be answered in the affirmative.

Alabama's "Sunshine" or open meeting law is found at **Code of Alabama 1975,** Section 13-5-1. It states:

> **"Executive or secret sessions of certain boards are forbidden.—** No executive or secret session shall be held by any of the following names boards, commissions or courts of Alabama, namely: The Alabama public service commission, school commissions of Alabama, board of adjustment, state or county commissioners or board of revenue, any city commission or municipal council, or any other body, board or commission in the state charged with the duty of disbursing any funds belonging to the state, county or municipality, or board, body or commission to which is delegated any legislative or judicial function; except that executive or secret sessions may be held by any of the above named boards or commissions when the character or good name of a woman or man is involved."

This law requires that **all** board of education meetings be open to the public with the sole exception of times when a person's character is discussed by the Board. This is the only exception. Therefore, all meetings of a board of education, whether formal or informal, are required to be open to the public.

The fact that all meetings of a county board of education should be open to the public is further seen in the fact that under **Code of Alabama 1975,** Section 16-8-10, interested citizens are to be consulted by the board of education before adopting the written education policy of the county.

If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

INFORMAL OPINIONS

During the period January 16, 1979 through March 31, 1979, the Attorney General rendered the following informal opinions.

Subject	Addressee	Date	File
	— A —		
ABSENTEE VOTING			
Registers—Receive compensation for handling absentee ballots	Allen L. Tapley	March 27	Adm. Office of Courts
AD VALOREM TAXES			
Ad Valorem—Tax Assessor—Taxation	Jerry B. Jones	Feb. 28	106
Ad Valorem Taxes—Exemptions—Tax Collector	Henry Rand	March 21	114
Owner of property—Not sign assessment sheet each year	Ina H. Becker	Jan. 25	12
Prior exemption—Must be reclaimed	Porter Lee Hanes	Jan. 24	18
Ad Valorem Tax—Tax Assessor—Exemptions—Present Use	Ina H. Becker	Feb. 1	37
Tax Collector—Tax Assessor— Abstracts and books of assessments should agree	Dennis B. Howell	Feb. 1	38
Ad Valorem—Tax Assessor—Decrease rate of tax	Derrell R. Hann	Feb. 1	39
Ad Valorem—Taxation—Exemptions	Ken Malone	Jan. 31	23
Airplanes used for spraying farmland—Not farming tools	Richard H. Ramsey, III	Feb. 14	84
Tax Assessor—Ad Valorem—Classification of property	Ken Malone	Feb. 14	23

Subject	Addressee	Date	File
Tax Assessor—Accept claim to homestead exemption—Based on affidavit	Ken Malone	Feb. 16	23
Exemption in §40-9-1(23)—Permanent exemption	Ken Malone	Feb. 13	23
ALABAMA HISTORICAL COMMISSION			
Alabama Historical Commission—Live in a Landmark Council—Funds	Walter Owens	Jan. 26	36
ANNEXATION			
Annex territory separated by river	E. Charles Ogden, III	Jan. 23	14
ANNISTON, CITY OF			
City of Anniston—Water Works Board	George Salmon	Jan. 23	13
APPROPRIATIONS			
Conservation—Game and Fish—Appropriations	John W. Hodnett	Feb. 5	Conservation Dept.
Pensions and Security—Employees—Appropriations	Gary Cooper	Feb. 26	Pensions & Security
Unused appropriation—Not hold over for next fiscal year	Charles L. Byrd	March 27	113
Appropriation—Education	Jack Biddle, III	March 27	112
ASSESSMENTS			
Municipality—Not levy license tax on property owned by another municipality	Richard L. Lewis	March 27	107
Taxation—Assessments—Ordinances	Bettye Frink	Feb. 7	Auditor

ATTORNEYS			
Attorneys fees—Reappraisal contract—Chargeable to cost of Reappraisal Program	Robert H. Kirksey	March 8	76
Permissible Attorney's fees under Mini-Code discussed	Kenneth R. McCartha	March 9	Banking
AUDIOLOGISTS			
Licensed audiologist—Apply to dispense hearing aids without license	Eugene B. Cooper	Feb. 9	51
AUDITOR			
Municipal corporation—Not contribute to charitable organizations	Bettye Frink	Jan. 25	Auditor
AUTOMOBILES			
Compensation—Salvaged automobiles—Reasonable expenses	Fitzhugh A. Burttram	Jan. 25	34
AUTOPSY			
Jefferson County—Coroner—Autopsy	Douglas Parsons	March 27	111
	— B —		
BALDWIN COUNTY			
Owner of property—Not sign assessment sheet each year	Ina H. Becker	Jan. 25	12
BANKING			
Board of School Commissioners—Banking procedure	Abe Hammons	Feb. 1	31
BANKS			
Permissible attorney's fees under Mini-Code discussed	Kenneth R. McCartha	March 9	Banking

Subject	Addressee	Date	File
BARBER COMMISSION			
Overpayment of fees—Credited to account	Martin Durden	Jan. 23	Barber Examiners
BIBB COUNTY			
Bibb County—County Commission—Meetings	George Allen Desmond	March 19	55
BIRMINGHAM-JEFFERSON COUNTY TRANSIT AUTHORITY			
Transit Authority—Capital improvement fund	Don B. Long, Jr.		6
BLOUNT COUNTY			
Blount County—Probate Judge—Salaries	Donnie Thomas	Jan. 31	25
Blount County—Provide expenses for Assistant District Attorney	Donnie Thomas	March 27	108
BOARD OF REGISTRARS			
Board of Registrars—Voter registration	Algie R. Bryan	Jan. 25	10
Boards of Registrars—May register individual outside office	Virginia Sansing	Jan. 25	11
BONDS			
Fire Marshal—Mobile Homes—Bonds—Licenses	Charles H. Payne	Feb. 9	Insurance
Fees from Industrial Revenue Bond notification procedure—Appropriated for use of Securities Commission	Thomas L. Krebs	Feb. 9	Securities Commission
BUILDINGS			
Courthouses—Decorative effects authorized	H. B. Steagall, III	Jan. 23	3

CALERA, CITY OF			
City of Calera—May sell vacated alley	George W. Roy	March 8	75
CANDIDATES			
One qualifying candidate—No election	Barbara Love	Feb. 15	80
CHAMBER OF COMMERCE			
Water Works Board not join Chamber of Commerce—Contract with Chamber of Commerce	John C. Bailey, Jr.	Jan. 23	29
CHEROKEE, CITY OF			
Municipality—Not contribute gasoline to rescue squad	Gene M. Hamby, Jr.	March 27	91
CHOCTAW COUNTY			
Choctaw County—Non-Profit corporation	Robert H. Kirksey	March 27	87
CIRCUIT CLERKS AND REGISTERS			
Circuit Clerks—Claim presented 6-17 years after accrual may be paid	Calvin Steindorff	Feb. 5	30
Clerks and Registers—Salaries	Allen Tapley	Jan. 25	Adm. Office of Courts
Clerks and Registers—Salaries	John B. Green	Feb. 12	46
CIRCUIT JUDGES			
Circuit Judge—Jefferson County—Term of Office	Joe G. Barnard	March 27	102
CITY COUNCIL			
Conflict of Interest—Municipality—City Council	John R. Phillips	March 27	110

Subject	Addressee	Date	File
CLASSIFICATION OF PROPERTY			
Tax Assessor—Ad Valorem—Classification of Property	Ken Malone	Feb. 14	23
COLBERT COUNTY			
County—Contract for ambulance service	Bruce Gargis	Jan. 25	15
COLLEGES AND UNIVERSITIES			
Trade-in of State property—No provision	Norman B. Smoot	Jan. 19	7
University may waive tuition for relatives of faculty	Asa N. Green	Jan. 24	28
Unused appropriation—Not hold over for next fiscal year	Charles L. Byrd	March 27	113
COMMUNITY DEVELOPMENT FUNDS			
City of Huntsville—Contracts—Community Development Funds	Joe W. Davis	March 27	92
COMPENSATION			
Compensation—Salvaged automobiles—Reasonable expenses	Fitzhugh A. Burttram	Jan. 25	34
COMPETITIVE BID LAW			
Trade-in of State property—No provision	Norman B. Smoot	Jan. 19	7
Contracts—Competitive Bid Law	Hugh Allen	Feb. 9	53
Hospital construction projects—Subject to competitive bid	Hoyt Levie	March 8	79
Contracts—Competitive Bid	Wayne Love	Feb. 22	73

CONFLICTS OF INTEREST			
Conflicts of Interest—Tax Collector not contract with County	Randall Shedd	Jan. 23	33
Conflicts of Interest—Officers and Offices	James L. Sparks	Feb. 1	42
Legislators—Use of federal funds—CETA-PSA program	Seth Hammett	Feb. 26	60
State Senator—Parttime Assistant District Attorney	Reo Kirkland, Jr.	March 8	81
Secretary-Treasurer of Retirement Systems—Also be Finance Director	David G. Bronner	March 13	Retirement Systems
Conflict of Interest—Municipality—City Council	John R. Phillips	March 27	110
Planning Board member—Not also serve on Civil Service Board	Donald G. Holmes	March 27	109
CONSERVATION			
Management fee—Sand and gravel—Navigable water bottoms	John W. Hodnett	Jan. 19	Conservation Dept.
Successful bidder—Survey leased property	John W. Hodnett	Feb. 1	Conservation Dept.
Sale of tree seedlings—Subject to sales tax	C. W. Moody	Jan. 31	Forestry Dept.
Conservation—Game and Fish—Appropriatons	John W. Hodnett	Feb. 5	Conservation Dept.
CONTRACTS			
Department of Industrial Relations—May enter CETA contract	James Carter	Jan. 24	Industrial Relations
County—Contract for ambulance service	Bruce Gargis	Jan. 25	15
Water Works Board—Not join Chamber of Commerce—Contract with Chamber of Commerce	John C. Bailey, Jr.	Jan. 23	29

Subject	Addressee	Date	File
Conflicts of Interest—Tax Collector not contract with county	Randall Shedd	Jan. 23	33
Contracts—Competitive Bid Law	Hugh Allen	Feb. 9	53
Education—Retainage on construction contract	Wayne Teague	March 19	Education
Contracts—Competitive Bid Law	Wayne Love	Feb. 22	73
Hospital construction projects—Subject to competitive bid	Hoyt Levie	March 8	79
City of Huntsville—Contracts—Community Development Funds	Joe W. Davis	March 27	92
COOSA COUNTY			
Coosa County—Sheriffs—Expenses	Jasper Fielding	March 27	100
CORE DRILLING			
Core drilling—Public Rights of way	Patrick H. Tate	Feb. 1	50
CORONERS			
Two Coroners—Both sworn in to fill vacancy—Sheriff's Office	Joel Folmar	March 2	63
Jefferson County—Coroners—Autopsy	Douglas Parsons	March 27	111
COSMETOLOGY			
Individual cosmetologist—Licensed as separate beauty shop	Billie Jehle	Jan. 23	Cosmetology
Cosmetology—Local Laws—Escambia County	Billie K. Jehle	Feb. 12	Cosmetology
Cosmetology—Licenses	Billie K. Jehle	March 27	Cosmetology

COSTS AND FEES			
Circuit Clerks—Claim presented 6-17 years after accrual may be paid	Calvin Steindorff	Feb. 5	30
COUNTY BOARDS OF EDUCATION			
County Boards of Education—Maximum interest rate under §16-13-146	R. E. Killette	Feb. 5	68
Salary of Superintendent—No increase during term	L. E. Gosa	Jan. 22	1
COUNTY COMMISSION			
Gasoline Tax—Road machinery—Not used to install water lines	George A. Desmond	Jan. 31	55
Sheriffs—Pistol Permit Fund—Not abolished	M. L. Murphy	Feb. 2	72
County Commission—Employ relative of Tax Collector as clerical assistant	Frank J. Green	March 8	65
Bibb County—County Commission—Meetings	George A. Desmond	March 19	55
Houston County Commission—Pay notes for public improvement	Charles Whiddon	March 27	105
Dead animals—Buried by owner	Hiram Pitts	March 27	99
County Commission—Statutes—Funds—Shelby County	William R. Hill, Jr.	Feb. 28	104
COURTHOUSES			
Courthouses—Decorative effects authorized	H. B. Steagall, III	Jan. 23	3
COURTS			
Courts—Fees	Allen L. Tapley	Jan. 22	Adm. Office of Courts

Subject	Addressee	Date	File
Circuit Judge—Jefferson County—Term of Office	Joe G. Barnard	March 27	102
	— D —		
DALE COUNTY			
Lighting private subdivision—Not expend public funds	Joseph W. Adams	Jan. 23	5
DEEDS			
Deeds from executor to beneficiary—Subject to tax	Harry D'Olive	Jan. 25	19
DELEGATION OF AUTHORITY			
Water Improvement Commission—Delegation of Authority	James W. Warr	Feb. 28	Water Imp. Comm.
DISTRICT ATTORNEYS			
Obsolete property—Sold by sealed bid or public auction—Proceeds credited to authorized depositary	John D. Whetstone	Jan. 25	Prosecution Services
Blount County—Provide expenses for assistant District Attorney	Donnie Thomas	March 27	108
DRIVERS LICENSE			
Arresting officer—May not **demand** deposit of drivers license	Melvin Bailey	Jan. 22	8
Random checks of drivers license authorized	M. L. Hilyer	Jan. 31	Public Safety
DRUGS			
Co-pay for prescription drugs—Paid prior to other charges	Jack E. Worthington	Jan. 24	22

DUAL OFFICEHOLDING			
Mayors—Dual officeholding	Leslie Wright	Jan. 25	Ethics Commission
— E —			
EDUCATION			
Board of School Commissioners—Banking Procedure	Abe Hammons	Feb. 1	31
Appropriation—Education	Jack Biddle, III	March 27	112
Education—Retainage on construction contract	Wayne Teague	March 19	Education
Public Safety Director—Designate member of Education Department to perform driving test	M. L. Hilyer	Feb. 28	Public Safety
Veterans and dependents—Educational benefits	H. L. Callahan	March 27	88
ELECTIONS			
One qualifying candidate—No election	Barbara Love	Feb. 15	80
Registers—Receive Compensation for handling absentee ballots	Allen L. Tapley	March 27	Adm. Office of Courts
ELECTION WORKERS			
Social Security—Election workers	J. Ben Swindle	Feb. 5	Social Security
Social Security—Election workers	J. Ben Swindle	March 7	Social Security
EMPLOYMENT, EMPLOYERS, EMPLOYEES			
Pensions and Security—Employees—Appropriations	Gary Cooper	Feb. 26	Pensions & Security

Subject	Addressee	Date	File
City Council—Increase salary of City Clerk	Judy Bolding	March 8	78
Marion County—Employees—Annual leave	Brady Baccus	March 8	66
County Commission—Employ relative of Tax Collector as clerical assistant	Frank J. Green	March 8	65
Employment of convicted felon—Violation of Alabama Fire Fighters Personnel Standards Act	Theron O. McDowell, Jr.	March 19	82
University may waive tuition for relative of faculty	Asa N. Green	Jan. 24	28
Creditable service may be restored after 5 years contribution	David G. Brooner	Jan. 22	Retirement System
State liable for Social Security of Judicial personnel from date they became State employees	J. Ben Swindle	Feb. 2	Social Security
District Attorneys office—State employees—Social Security	J. Ben Swindle	Jan. 31	Social Security
State not liable for Social Security taxes on county employees	J. Ben Swindle	Feb. 2	Social Security
State employees—Travel expenses	Bettye Frink	March 12	Auditor
EMPLOYEES RETIREMENT SYSTEM			
Creditable service may be restored after 5 years contribution	David G. Bronner	Jan. 22	Retirement System
ESCAMBIA COUNTY			
Cosmetology—Local Laws—Escambia County	Billie K. Jehle	Feb. 12	Cosmetology

ETHICS COMMISSION			
Mayors—Dual Officeholding	Leslie Wright	Jan. 25	Ethics Commission
EXAMINERS OF PUBLIC ACCOUNTS			
Examiners of Public Accounts—Redemption of Lands—Tax Collectors—Tax Assessors	William W. Dillard	Jan. 25	Exam. of Pub. Accts.
EXEMPTIONS			
Prior exemption—Must be reclaimed	Porter Lee Hanes	Jan. 24	18
Ad Valorem—Tax Taxation—Exemptions	Ken Malone	Jan. 31	23
Ad Valorem Tax—Tax Assessor—Exemptions—Present Use	Ina H. Becker	Feb. 1	37
Taxation—Exemptions—Pollution Control	J. F. Stegall	Jan. 31	54
Exemption in §40-9-1(23)—Permanent exemption	Ken Malone	Feb. 13	23
Airplanes used for spraying farmland—Not farming tools	Richard H. Ramsey, III	Feb. 14	84
Taxation—Sales Tax—Exemptions	Ralph P. Eagerton, Jr.	Feb. 6	Revenue
Ad Valorem Taxes—Exemptions—Tax Collector	Henry Rand	March 21	114
EXPENSE ALLOWANCE			
Shelby County—Sheriffs—Expense allowance	James F. Glasgow	Feb. 20	71
Sumter County—Sheriffs—Expense allowance	Melvin Stephens	March 8	67

Subject	Addressee	Date	File
EXPENSES			
State employees—Travel expenses	Bettye Frink	March 12	Auditor
Blount County—Provide expenses for assistant District Attorney	Donnie Thomas	March 27	108
Franklin County—Sheriffs—Expenses	Jimmy Byars	March 27	98
Coosa County—Sheriffs—Expenses	Jasper Fielding	March 27	100
	— F —		
FEES			
Courts—Fees	Allen L. Tapley	Jan. 22	Adm. Office of Courts
Attorney's fees—Reappraisal Contract—Chargeable to cost of reappraisal program	Robert H. Kirksey	March 8	76
FILING TAX			
Security for other debt—Open end mortgages	R. I. Gentry	Jan. 25	20
Deed from executor to beneficiary—Subject to tax	Harry D'Olive	Jan. 25	19
FINANCE, DEPARTMENT OF			
Secretary-Treasurer of Retirement System—Also be Finance Director	David G. Bronner	March 13	Retirement System
FIRE DISTRICTS			
North Shelby Fire District—Not exempt from sales tax	L. Stephen Wright, Jr.	Feb. 9	69

North Shelby County Fire District—Not entitled to county or free "volunteer fire department" tag	Ralph P. Eagerton, Jr.	March 13	Revenue
FIRE FIGHTERS			
Employment of convicted felon—Violation of Alabama Fire Fighters Personnel Standards Act	Theron O. McDowell, Jr.	March 19	82
FIRE MARSHAL			
Fire Marshal—Mobile Homes—Bonds—Licenses	Charles H. Payne	Feb. 9	Insurance Dept.
FLORENCE, CITY OF			
Muscle Shoals Regional Library Board—Appoint local boards	Earl F. Evans	Feb. 16	57
FORESTRY COMMISSION			
Sale of tree seedlings—Subject to sales tax	C. W. Moody	Jan. 31	Forestry Commission
FRANKLIN COUNTY			
Franklin County—Sheriffs—Expenses	Jimmy Byars	March 27	98
FUNDS			
Legislator—Use of federal funds—CETA-PSE program	Seth Hammett	Feb. 26	60
Sheriffs—Pistol Permit Fund—Not abolished	M. L. Murphy	Feb. 2	72
County Commission—Statutes—Funds—Shelby County	William R. Hill, Jr.	Feb. 28	104
Houston County Commission—Pay notes for public improvement	Charles Whiddon	March 27	105

Subject	Addressee	Date	File
Mobile Racing Commission—Distribution of funds	Maury Friedlander	Jan. 23	4
Lighting private subdivision—Not expend public funds	Joseph W. Adams	Jan. 23	5
Community Development Funds—Rebate program	Roger W. Kirby	Jan. 22	32
Volunteer Fire Department—Not receive State matching funds	Charles W. Whatley	Jan. 31	24
Alabama Historical Commission—Live in a Landmark Council—Funds	Walter Owens	Jan. 26	36
Gasoline Tax proceeds—Not used to purchase police car	Jean Bishop	Feb. 12	49
— G —			
GADSDEN, CITY OF			
Community Development Funds—Rebate program	Roger W. Kirby	Jan. 22	32
City of Gadsden—Carry out proposed development project	Roger W. Kirby	March 27	86
GAME AND FISH			
Conservation—Game and Fish—Appropriations	John W. Hodnett	Feb. 5	Conservation Department
GASOLINE			
Municipality—Not contribute gasoline to rescue squad	Gene M. Hamby, Jr.	March 27	91

GASOLINE TAX			
Gasoline Tax—Road machinery—Not used to install water lines	George A. Desmond	Jan. 31	55
Gasoline tax proceeds—Not used to purchase police car	Jean Bishop	Feb. 12	49
GUNTERSVILLE, CITY OF			
Annex territory separated by river	E. Charles Ogden, III	Jan. 23	14
— H —			
HEALTH AND HEALTH DEPARTMENT			
City impose requirement for health department approval of sewage facility before furnishing water	Faye Swanner	Jan. 30	26
Health Systems Agency—Submit less than 5 nominees for Statewide Council	Ira L. Myers	March 26	Health Department
Dead animals—Buried by owner	Hiram Pitts	March 27	99
HEARING AID DEALERS, BOARD OF			
Licensed audiologist—Apply to dispense hearing aids without license	Eugene B. Cooper	Feb. 9	51
HISTORICAL COMMISSION			
Alabama Historical Commission—Not lease mineral rights to Fort Morgan	W. Warner Floyd	Feb. 14	Historical Commission
HOSPITALS			
Hospital construction projects—Subject to Competitive Bid	Hoyt Levie	March 8	79

Subject	Addressee	Date	File
Voluntary admission into psychiatric hospital—Based on intelligent decision by individual	Thomas A. Salter	Feb. 21	83
HOUSTON COUNTY			
Houston County—Revenue Commissioner—Salaries	John L. Napier	Feb. 16	61
Houston County Commission—Pay notes for public improvement	Charles Whiddon	March 27	105
HUNTSVILLE, CITY OF			
City of Huntsville—Contracts—Community Development Funds	Joe W. Davis	March 27	92
— I —			
INDIGENTS			
Conflicts of Interest—Tax Collector not contract with county	Randall Shedd	Jan. 23	33
Medical treatment—Prisoners—Indigents	Mac Murphy	Feb. 12	48
Municipal Courts—Indigents	Michael Crespi	March 8	77
INDUSTRIAL DEVELOPMENT BONDS			
Fees from Industrial Revenue Bond notification procedure—Appropriated for use of Securities Commission	Thomas L. Krebs	Feb. 9	Securities Commission
INDUSTRIAL RELATIONS, DEPARTMENT OF			
Department of Industrial Relations—May enter CETA contract	James Carter	Jan. 24	Industrial Relations

INSANE PERSONS			
Insane persons—Minors—Spouse—Sell real estate	Frank Green	Jan. 31	56
INSURANCE			
University of Alabama—Extended coverage carried in State Insurance Fund	Gary L. Blume	Jan. 23	2
INTEREST			
Hospital cannot charge interest on unpaid bills unless it complies with Mini-Code	J. F. Bynum	Jan. 23	27
County Boards of Education—Maximum interest rate under §16-13-146	R. E. Killette	Feb. 5	68
— J —			
JACKSON COUNTY			
Jackson County—Sheriffs—Salaries	W. R. Collins	March 8	70
JEFFERSON COUNTY			
Transit Authority—Capital improvement fund	Don B. Long, Jr.	Jan. 23	8
Jefferson County—Corners—Autopsy	Douglas Parsons	March 27	111
JUDGES			
Circuit Judge—Term of Office	Henry W. Blizzard	Jan. 22	21
JUDGES OF PROBATE			
Security for other debt—Open end mortgages	R. I. Gentry	Jan. 25	20

Subject	Addressee	Date	File
Deed from executor to beneficiary—Subject to tax	Harry D'Olive	Jan. 25	19
JUDICIAL ARTICLE			
Judicial Article—Salaries—Retired Circuit Judge called to active service	Allen L. Tapley	Feb. 5	Adm. Office of Courts
— L —			
LAW ENFORCEMENT OFFICERS			
Arresting officer—may not **demand** deposit of drivers license	Melvin Bailey	Jan. 22	8
LEASES			
Alabama Historical Commission—Not lease mineral rights to Fort Morgan	W. Warner Floyd	Feb. 14	Historical Commission
Leases—Medical Clinics—Town of Snead	Ernest McCall	March 27	94
LEGISLATORS			
Legislators—Use of federal funds—CETA-PSE program	Seth Hammett	Feb. 26	60
LEGISLATURE			
Secretary of State—Not expend funds to distribute legislative journals	Don Siegelman	Jan. 18	Secretary of State
State Senator—Parttime Assistant District Attorney	Reo Kirkland, Jr.	March 8	81

LIBRARY BOARDS			
Muscle Shoals Regional Library Board—Appoint local boards	Earl F. Evans	Feb. 16	57
LICENSES			
Individual cosmetologist—Licensed as separate beauty shop	Billie Jehle	Jan. 23	Cosmetology
Overpayment of fees—Credited to account	Martin Durden	Jan. 23	Barber Examiners
Licensed audiologist—Apply to dispense hearing aids without license	Eugene G. Cooper	Feb. 9	51
Fire Marshal—Mobile Homes—Bonds—Licenses	Charles H. Payne	Feb. 9	Insurance Department
Special license—Sunday laws—Constitutional	R. J. Stembridge	March 8	74
Cosmetology—Licenses	Billie K. Jehle	March 27	Cosmetology
LICENSE TAGS			
North Shelby County Fire District—Not entitled to county or free "volunteer fire department" tag	Ralph P. Eagerton, Jr.	Feb. 13	Revenue
LOCAL LAWS			
Cosmetology—Local laws—Escambia County	Billie K. Jehle	Feb. 12	Cosmetology
— M —			
MAGISTRATES			
Magistrates—Sole responsibility for arrest warrants	John B. Green	March 8	46

Subject	Address	Date	File
MARION COUNTY			
Marion County—Employees—Annual leave	Brady Baccus	March 8	66
MAYORS			
Council—Set only one salary for Mayor	Hugh Allen	March 8	53
MEDICAL CLINICS			
Leases—Medical Clinics—Town of Snead	Ernest McCall	March 27	94
MEDICAL SCHOLARSHIP FUND			
County not contribute to medical scholarship fund	Charles V. Ford	Jan. 23	35
MEDICAL SERVICES ADMINISTRATION			
Co-pay for prescription drugs—Paid prior to other charges	Jack E. Worthington	Jan. 24	22
MENTAL HEALTH			
Voluntary admission into psychiatric hospital—Based on intelligent decision by individual	Thomas A. Salter	Feb. 21	83
MERIT SYSTEM			
Merit System—Probationary Period—Public Safety	M. L. Hilyer	Feb. 28	Public Safety
MILEAGE			
No mileage allowance when using county vehicle	Bettye Frink	Jan. 19	Auditor

MINI-CODE			
Permissible attorney's fees under Mini-Code discussed	Kenneth R. McCartha	March 9	Banking
MINORS			
Insane persons—Minors—Spouse—Sell real estate	Frank Green	Jan. 31	56
MOBILE COUNTY			
Board of School Commissioners—Banking Procedure	Abe Hammond	Feb. 1	31
MOBILE RACING COMMISSION			
Mobile Racing Commission—Distribution of funds	Maury Friedlander	Jan. 23	4
MOBILE HOMES			
Fire Marshal—Mobile Homes—Bonds—Licenses	Charles H. Payne	Feb. 9	Insurance Department
Municipality—Not provide lighting for undedicated streets in mobile home park	James P. Schaffer	March 27	95
MORGAN COUNTY			
Sheriffs—Salaries—Morgan County	Thornton Fleming	March 27	90
MORTGAGES			
Security for other debt—Open-end mortgages	R. I. Gentry	Jan. 25	20
MOTOR VEHICLES			
Core drilling—Public rights of way	Patrick H. Tate	Feb. 1	50

Subject	Address	Date	File
MUNICIPAL CORPORATIONS			
Municipal corporation—Not contribute to charitable organizations	Bettye Frink	Jan. 25	Auditor
MUNICIPAL COURTS			
Municipal Court Clerks—Issue failure to appear warrants after one year	Betty Ayers	Feb. 5	44
Municipal Courts—Indigents	Michael Crespi	March 8	77
— N —			
NAVIGABLE WATER			
Management fee—Sand and gravel—Navigable water bottoms	John W. Hodnett	Jan. 19	Conservation Department
NEPOTISM			
County Commission—Employ relative of Tax Collector as clerical assistant	Frank J. Green	March 8	65
NON-PROFIT CORPORATIONS			
County not contribute to medical scholarship fund	Charles V. Ford	Jan. 23	35
Choctaw County—Non-profit corporation	Robert H. Kirksey	March 27	87
NURSING HOMES			
Co-pay for prescription drugs—Paid prior to other charges	Jack E. Worthington	Jan. 24	22

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OFFICERS AND OFFICES			
Conflicts of Interest—Officers and Offices	James L. Sparks	Feb. 1	42
Planning Board member—Not also serve on Civil Service Board	Donald G. Holmes	March 27	109
ORDINANCES			
Taxation—Assessments—Ordinances	Bettye Frink	Feb. 7	Auditor

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PENSIONS AND SECURITY			
Pensions and Securities—Employees—Appropriations	Gary Cooper	Feb. 26	Pensions & Security
PHYSICIANS			
Physician may treat patient with rabies vaccine	James A. Brice	Feb. 9	52
PLANNING AND ZONING			
County—Authority to regulate subdivision within cities in county	James F. Brown	March 8	64
Zoning Board of Adjustment—Permit professional office in R-2 zone	Hugh Allen	March 27	103
POLLUTION CONTROL			
Taxation—Exemptions—Pollution control	J. F. Stegall	Jan. 31	54
PRISONS AND PRISONERS			
Medical treatment—Prisoners—Indigents	Mac Murphy	Feb. 12	48
PRIVATE WORK			
Dead animals—Buried by owner	Hiram Pitts	March 27	99

Subject	Address	Date	File
PROBATE COURTS			
Insane persons—Minors—Spouse—Sell real estate	Frank Green	Jan. 31	56
PROBATE JUDGES			
Blount County—Probate Judge—Salaries	Donnie Thomas	Jan. 31	25
Tax Sales—Judges of Probate—Deeds	W. Hardy McCollum	Feb. 2	41
PROPERTY			
City of Calera—May sell vacated alley	George W. Roy	March 8	75
Municipality—Not levy license tax on property owned by another municipality	Richard L. Lewis	March 27	107
PUBLIC RIGHTS OF WAY			
Core drilling—Public rights of way	Patrick H. Tate	Feb. 1	50
PUBLIC SAFETY			
Random checks of drivers license authorized	M. L. Hilyer	Jan. 31	Public Safety
Merit System—Probationary Period—Public Safety	M. L. Hilyer	Feb. 28	Public Safety
Public Safety Director—Designate members of Education Department to perform driving test	M. L. Hilyer	Feb. 28	Public Safety
PUBLIC SERVICE COMMISSION			
Public Service Commission—Utilities	Juanita W. McDaniel	Feb. 15	Public Service Commission

RABIES			
Physician may treat patient with rabies vaccine	James A. Brice	Feb. 9	52
REAPPRAISAL PROGRAM			
Attorneys fees—Reappraisal Contract—Chargeable to cost of Reappraisal program	Robert H. Kirksey	March 8	76
RECREATION BOARDS			
Winston County—Recreation Board	Idas Neal	Feb. 12	47
REDEMPTION OF LANDS			
Examiners of Public Accounts—Redemption of Lands—Tax Collectors—Tax Assessors	William W. Dillard	Jan. 25	Exam. of Pub. Accts.
REGISTRARS			
Registrars—Compensation	Pauline Cumbie	Feb. 9	62
REGISTERS			
Registers—Receive compensation for handling absentee ballots	Allen L. Tapley	March 27	Adm. Office of Courts
RETIREMENT SYSTEMS			
Retirement Systems—Average final salary	David Bronner	Feb. 26	Retirement Systems
Secretary-Treasurer of Retirement System—Also be Finance Director	David Bronner	March 13	Retirement Systems
Retirement Systems—Securities—State Treasurer	Annie Laurie Gunter	March 27	Treasurer

Subject	Address	Date	File
REVENUE DEPARTMENT			
Houston County—Revenue Commissioner—Salaries	John L. Napier	Feb. 16	61
— S —			
SALARIES			
Salary of Superintendent—No increase during term	L. E. Gosa	Jan. 22	1
Blount County—Judge of Probate—Salaries	Donnie Thomas	Jan. 31	25
Clerks and Registers—Salaries	John B. Green	Feb. 12	46
Clerks and Registers—Salaries	Allen Tapley	Jan. 25	Adm. Office of Courts
Retirement Systems—Average final salary	David Bronner	Feb. 26	Retirement Systems
Registrars—Compensation	Pauline Cumbie	Feb. 9	62
Houston County—Revenue Commissioner—Salaries	John L. Napier	Feb. 16	61
Jackson County—Sheriffs—Salaries	W. R. Collins	March 8	70
City Council—Increase salary of City Clerk	Judy Bolding	March 8	78
Judicial Article—Salaries—Retired Circuit Judge called to active service	Allen L. Tapley	Feb. 5	Adm. Office of Courts
Council—Set only one salary for Mayor	Hugh Allen	March 8	53
Sheriffs—Salaries—Morgan County	Thornton Fleming	March 27	90
Henry County—Tax Collector—Salaries	Dan Capps	March 27	93
SALES TAX			
Sale of tree seedlings—Subject to sales tax	C. W. Moody	Jan. 31	Forestry Commission

North Shelby Fire District—Not exempt from sales tax	L. Stephen Wright, Jr.	Feb. 9	69
Taxation—Sales Tax—Exemptions	Ralph P. Eagerton, Jr.	Feb. 6	Revenue
SCHOOLS			
Salary of Superintendent—No increase during term	L. E. Gosa	Jan. 22	1
SECRETARY OF ETATE			
Secretary of State—Not expend funds to distribute legislative journals	Don Siegelman	Jan. 18	Secretary of State
SECURITIES			
Retirement Systems—Securities—State Treasurer	Annie Laurie Gunter	March 27	Treasurer
SECURITIES COMMISSION			
Fees from Industrial Revenue Bonds Notification Procedure—Appropriated for use of Securities Commission	Thomas L. Krebs	Feb. 9	Securities Commission
SHELBY COUNTY			
Shelby County—Sheriffs—Expense allowance	James F. Glasgow	Feb. 20	71
North Shelby County Fire District—Not entitled to county or free "volunteer fire department" tag	Ralph P. Eagerton, Jr.	Feb. 13	Revenue
County Commission—Statutes—Funds—Shelby County	William R. Hill, Jr.	Feb. 28	104
SHERIFFS			
Sumter County—Sheriffs—Expense allowance	Melvin Stephens	March 8	67
Sheriffs—Salaries—Morgan County	Thornton Fleming	March 27	90

Subject	Address	Date	File
Franklin County—Sheriffs—Expenses	Jimmy Byars	March 27	98
Coosa County—Sheriffs—Expenses	Jasper Fielding	March 27	100
No mileage allowance when using county vehicle	Bettye Frink	Jan. 19	Auditor
Volunteer Deputy Sheriff—Telephone service not authorized	Grady Perry	Feb. 1	43
Two Coroners—Both sworn in to fill vacancy—Sheriffs	Joel Folmar	March 2	63
Jackson County—Sheriff—Salaries	W. R. Collins	March 8	70
Sheriffs—Pistol Permit Fund—Not abolished	M. L. Murphy	Feb. 2	72
Shelby County—Sheriffs—Expense allowance	James F. Glasgow	Feb. 20	71
SNEAD, TOWN OF			
Leases—Medical Clinics—Town of Snead	Ernest McCall	March 27	94
SOCIAL SECURITY			
District Attorney's office—State employees—Social Security	J. Ben Swindle	Jan. 31	Social Security
State liable for Social Security of Judicial personnel from date they became State employees	J. Ben Swindle	Feb. 2	Social Security
State not liable for Social Security taxes on county employees	J. Ben Swindle	Feb. 2	Social Security
Social Security—Election workers	J. Ben Swindle	Feb. 5	Social Security
Social Security—Election workers	J. Ben Swindle	March 7	Social Security

STATE HEALTH COORDINATING COUNCIL			
Health Systems Agency—Submit less than 5 nominees for statewide council	Ira L. Myers	March 26	Health Department
STATE PROPERTY			
Obsolete property—Sold by sealed bid or public auction—Proceeds credited to authorized depositary	John D. Whetstone	Jan. 25	Prosecution Services
STATE TREASURER			
Retirement Systems—Securities—State Treasurer	Annie Laurie Gunter	March 27	Treasurer
STATUTES			
County Commission—Statutes—Funds—Shelby County	William R. Hill, Jr.	Feb. 28	104
STREETS			
Lighting private subdivision—Not expend public funds	Joseph W. Adams	Jan. 23	5
City of Calera—May sell vacated alley	George W. Roy	March 8	75
Municipality—Not provide lighting for undedicated streets in mobile home park	James P. Schaffer	March 27	95
SUBDIVISIONS			
County—Authority to regulate subdivision within cities in county	James F. Brown	March 8	64
SUMTER COUNTY			
Sumter County—Sheriffs—Expense allowance	Melvin Stephens	March 8	67

Subject	Address	Date	File
SUNDAY LAWS			
Special license—Sunday laws—Constitutional	R. J. Stembridge	March 8	74
SURVEYS			
Successful bidder—Survey leased property	John W. Hodnett	Feb. 1	Conservation Department
— T —			
TAX ASSESSORS			
Owner of property—Not sign assessment sheet each year	Ina H. Becker	Jan. 25	12
Ad Valorem Tax—Tax Assessor—Exemptions—Present Use	Ina H. Becker	Feb. 1	37
Tax Collector—Tax Assessor—Abstracts and book of assessments should agree	Dennis B. Howell	Feb. 1	38
Ad Valorem Tax—Tax Assessor—Decrease rate of tax	Derrell R. Hann	Feb. 1	39
Ad Valorem Tax—Tax Assessor—Taxation	Jerry B. Jones	Feb. 28	106
Tax Assessor—Ad Valorem Tax—Classification of property	Ken Malone	Feb. 14	23
Examiners of Public Accounts—Redemption of Lands—Tax Collectors—Tax Assessors	William W. Dillard	Jan. 25	Exam. of Pub. Accts.
Tax Assessor—Accept claim to homestead exemption—Based on affidavit	Ken Malone	Feb. 16	23

TAXATION			
Ad Valorem Tax—Taxation—Exemptions	Ken Malone	Jan. 31	23
Taxation—Exemptions—Pollution control	J. F. Stegall	Jan. 31	54
North Shelby Fire District—Not exempt from sales tax	L. Stephen Wright, Jr.	Feb. 9	69
Exemption in §40-9-1(23)—Permanent exemption	Ken Malone	Feb. 13	23
Ad Valorem Tax—Tax Assessor—Taxation	Jerry B. Jones	Feb. 28	106
Municipality—Not levy license tax on property owned by another municipality	Richard L. Lewis	March 27	107
Taxation—Assessments—Ordinances	Bettye Frink	Feb. 7	Auditor
Taxation—Sales Tax—Exemptions	Ralph P. Eagerton	Feb. 6	Revenue
TAX COLLECTORS			
Tax Collector—Tax Assessor—Abstracts and book of assessments should agree	Dennis B. Howell	Feb. 1	38
Henry County—Tax Collector—Salary	Dan Capps	March 27	93
Ad Valorem Tax—Exemption—Tax Collector	Henry Rand	March 21	114
Examiners of Public Accounts—Redemption of Lands—Tax Collectors—Tax Assessors	William W. Dillard	Jan. 25	Exam. of Pub. Accts.
TAX SALES			
Tax Sales—Judges of Probate—Deeds	W. Hardy McCollum	Feb. 2	41
TAXES			
State liable for Social Security of Judicial personnel from date they became State employees	J. Ben Swindle	Feb. 2	Social Security

Subject	Address	Date	File
TEACHERS' RETIREMENT SYSTEM			
Creditable service may be restored after 5 years contribution	David G. Bronner	Jan. 22	Retirement Systems
TERM OF OFFICE			
Circuit Judge—Term of Office	Henry W. Blizzard	Jan. 22	21
— U —			
UNIVERSITY OF ALABAMA			
University of Alabama—extended coverage carried in State Insurance Fund	Gary L. Blume	Jan. 23	2
URBAN DEVELOPMENT			
City of Gadsden—Carry out proposed development project	Roger W. Kirby	March 27	86
UTILITIES			
Public Service Commission—Utilities	Juanita W. McDaniel	Feb. 15	Public Service Commission
UTILITIES BOARDS			
City of Anniston—Water Works Board	George Salmon	Jan. 23	13
Water Works Board not join Chamber of Commerce—Contract with Chamber of Commerce	John C. Bailey, Jr.	Jan. 23	29
— V —			
VETERANS			
Veterans and Dependants—Educational benefits	H. L. Callahan	March 27	88

VOLUNTEERS			
Volunteer Fire Department—Not receive State matching funds	Charles W. Whatley	Jan. 31	24
VOTER REGISTRATION			
Boards of Registrars—Voter registration	Algie R. Bryan	Jan. 25	10
Boards of Registrars—May register individual outside office	Virginia Sansing	Jan. 25	11
— W —			
WALKER COUNTY			
Volunteer Deputy Sheriff—Telephone service not authorized	Grady Perry	Feb. 1	43
WARRANTS			
Municipal Court Clerks—Issue failure to appear warrants after one year	Betty Ayers	Feb. 5	44
Magistrates—Sole responsibility for arrest warrants	John B. Green	March 8	46
WATER			
City impose requirement for health department approval of sewage facility before furnishing water	Faye Swanner	Jan. 30	26
WATER IMPROVEMENT COMMISSION			
Water Improvement Commission—Delegation of Authority	James W. Warr	Feb. 28	WIC
WINSTON COUNTY			
Winston County—Recreation Board	Idas Neal	Feb. 12	47